

BILL NO. G-75-11-65 (amended)

GENERAL ORDINANCE NO. G-29-75

AN ORDINANCE governing the procedure to be followed with regard to the demotion of members of the Fort Wayne Fire Department and providing for the establishment of a Fire Department Merit System Committee.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA:

SECTION 1. Definitions. As used herein:

The words "Board" and "Board of Public Safety" shall refer to that agency known variously as the "Board of Public Safety" and as the "Board of Commissioners of the Department of Safety", being the agency which exercises management, control and supervision over the Fire Department of the City of Fort Wayne, Indiana or to any successor agency exercising like management, control and supervision.

The word "Chief" shall refer to the Fire Chief within and for the City of Fort Wayne, Indiana.

The word "City" shall refer to the City of Fort Wayne, Indiana.

The word "Common Council" and "Council" shall refer to the Common Council of the City of Fort Wayne, Indiana.)

The word "Fire Department" shall refer to the Fort Wayne Fire Department.

The word "Mayor" shall refer to the Mayor of the City of Fort Wayne, Indiana.

The masculine shall include the feminine and neuter and the neuter shall include the feminine and masculine.

The disjunctive shall include the conjunctive and the conjunctive shall include the disjunctive.

SECTION 2. With the exception of the Chief, every member of the Fire Department appointed by the Mayor or by the Board of Public Safety shall hold his present rank, or

such rank as he may hereafter attain, unless and until he is demoted by the Board in compliance with the terms of this Ordinance. A member may be demoted only for cause other than politics, after written notice from the Chief is served upon him in person or by copy left at his last and usual place of residence notifying him of the time and place of a hearing. Said notice shall contain the written reasons for such request for demotion, and shall be served upon the member at least ten (10) days prior to the date set for said hearing.

SECTION 3. The Board of Public Safety shall then hold a hearing upon the question as to whether or not said member shall be demoted. The member may appear in person and by counsel and present evidence in response to the charges filed against him.

SECTION 4. The Board of Public Safety and the member of the Fire Department against whom charges are preferred shall have the power to compel the attendance of witnesses and to examine them under oath at such hearing and for that purpose may issue subpoenas and cause the same to be served and executed in any part of Allen County, Indiana.

SECTION 5. A member of the Fire Department may be demoted under the procedure referred to above if he has been convicted in any court of a felony under the laws of the State of Indiana or of the federal government; or upon the finding and decision of the Board of Public Safety that any such member has been or is guilty of gross neglect of duty, or willful violation of the rules and regulations of the department, or willful neglect or disobedience of orders of the department, or absence without leave or immoral conduct.

SECTION 6. After charges have been filed and a hearing held in compliance with the terms of this ordinance, if the Board of Public Safety shall find, by a majority vote, that the member should be demoted in rank, the Board shall then

1
2 have the authority to reduce or demote said member one (1)
3 position in rank. In the event there is no vacancy in the rank
4 next below the rank for which the member held immediately prior
5 to his demotion, he shall be demoted to the next lowest rank
6 in which there is a vacancy, provided, however, that he shall
7 be awarded the first vacancy thereafter occurring in the rank
8 next below the rank he held immediately prior to his demotion.
9 (Whenever a vacancy occurs in any rank intermediate between the
10 rank to which the member is demoted and the rank next below
11 the rank in which he was serving immediately prior to his
12 demotion, the member shall be promoted to such vacancy until
13 he has been returned to the rank next below the rank in which
14 he was serving immediately prior to his demotion.)

15 SECTION 7. The Chief may be demoted by the Mayor
16 for such reasons as the Mayor may deem sufficient and without
17 necessity for notice or hearing. Provided, however, the
18 Chief may be demoted one (1) position in rank. In the event
19 there is no vacancy in the rank next below the rank of Chief,
20 he shall be demoted to the next lowest rank in which there
21 is a vacancy and he shall be awarded the first vacancy thereafter
22 occurring in the rank next below the rank of Chief. (Provided,
23 however, whenever a vacancy occurs in any rank intermediate
24 between the rank to which he is demoted and the rank next
25 below the rank of Chief, he shall be promoted to such vacancy
26 until he has been returned to the rank next below the rank of
27 Chief. Provided, further, he shall in no event receive com-
28 pensation less than that paid members serving in the rank next
29 below the rank of Chief.)

30 SECTION 8. In the event two or more members of the
31 Fire Department shall have been demoted to a rank more than
32 one (1) rank below the rank each held immediately prior to his
33 demotion, and in the event a vacancy opens for which each would
34 have a claim under the terms hereof, the vacancy shall be
35 awarded, first, to the member who held the higher rank immediately

prior to their respective demotions. In the event each held the same rank immediately prior to their respective demotions, the vacancy shall be awarded to the one whose demotion first became effective. In the further event, the demotions were simultaneous, the vacancy shall be awarded to the one who had the longer service in the rank each held immediately prior to their respective demotions.

NEW SECTION 9. (No member of the Fire Department may be transferred from one division to another except for medical reasons or at the request of the member.)

NEW SECTION 10. (No member may be transferred from one shift to another except at his request, or, in the event that the operational necessities of the department require transfers in greater number than can be met by request. Such transfers shall be made of those members having the least continuous seniority in the rank involved in the transfer.)

del SECTION 11. Any member of such fire force who is demoted, as aforesaid, shall have the right to appeal said demotion to the Allen Circuit Court of the Allen Superior Court. Such appeal shall be taken by such member's filing a complaint in such court, within thirty (30) days after the date such decision is rendered. The City shall be named as the sole defendant and the plaintiff shall cause summons to issue as in other cases against the City. The City may file a motion to dismiss the appeal for failure to perfect the same within the time and in the manner required by this section. The decision appealed from shall be stayed pending the final determination of such appeal.

del SECTION 12. All such appeals shall be heard de novo upon the issues raised by the charges upon which the decision of the Board was made, which charges shall be deemed to be denied by the accused person. Within ten (10) days after the service of summons, said Board shall file with the court a full, true and complete transcript of all papers, entries and other parts

1 of the record relating to such particular case. Each party may produce
2 such evidence as it may desire, relevant to the issues, and the court of
3 jury upon such appeal shall review the record and decisions of said board.

4 SECTION 13. Either party thereto shall be allowed a change of
5 venue for such court or a change of judge in the same manner as such
6 changes are allowed in civil cases. The provisions of the civil code
7 shall govern in all matters of procedure upon such appeal that are not
8 otherwise provided for by this section and by Section 12 hereof.

9 SECTION 14. There shall be appointed a committee to be known
10 as "The Fire Department Merit System Committee". Said Committee shall
11 consist of three members of the Common Council of the City of Fort Wayne
12 appointed by said Council, no more than two of whom shall be members of
13 the same political party. Said Committee shall also consist of one
14 member of the Fire Department to be appointed by the present Chief, one
15 member of the Fire Department to be appointed by the Mayor assuming office
16 January 1, 1976, one member of the Fire Department to be appointed by the
17 Fire Chief assuming office January 1, 1976, and two members of the Fire
18 Department to be selected from the membership of the Fort Wayne Pro-
19 fessional Fire Fighters Association. The persons selected by the Fort
20 Wayne Professional Fire Fighters Association shall represent the two
21 major political parties, the representative of each party to be elected
22 by those members of the association who are registered voters of the
23 party in question. No more than three (3) of the five (5) members of the
24 Fire Department on the Committee shall be members of the same political party.

25 SECTION 15. The committee shall meet from time to time as
26 its members shall determine. No meeting shall be held on less than one
27 week's notice. Five (5) members of the committee shall constitute a
28 quorum. In the event a member cannot attend a meeting, he may select a
29 proxy from the council in the case of a member from the council and from
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3 the Fire Department in the case of a member from the Fire
4 Department.

5 SECTION 16. Said Committee shall render a report of
6 its activities to the Council no later than March 1, 1976
7 and on the first day of each month thereafter.

8 SECTION 17. Said Committee shall prepare recommenda-
9 tions to the Council regarding a merit system to be adopted
10 for the promotion and demotion of members of the Fort Wayne
11 Fire Department. In preparing such recommendations the
12 Committee shall be appropriated such funds as the Council
13 from time to time shall deem necessary and the Committee
14 shall consult with representatives of cities having merit
15 systems for their Fire Departments, with personnel manage-
16 ment experts with experience in the field of municipal
17 merit systems, with experts in the fields of Fire Prevention
18 and Fire Fighting and such other authorities as the Commit-
19 tee shall select.

9 months
20 SECTION 18. No later than ~~one year~~ from the date
21 of the first meeting of said Committee, it shall render its
22 recommendations to the Council. In the event it is unable
23 to agree upon recommendations, it shall submit such reports
24 and findings as the individual members of the Committee
25 may wish. Upon receipt of such recommendations, reports
26 and findings, the Council shall prepare a merit system for
27 the Fire Department to be set forth in an Ordinance to be
28 adopted at said time.

29 SECTION 19. Upon the effective date of the Ordinance
30 establishing a merit system for the Fire Department, the
31 sections 2 through 13 of this Ordinance shall cease to be
32 effective. The sum of \$7,500 shall be appropriated to fund
33 the activities and research of The Fire Department Merit
34 System Committee, and such funds shall be administered by
35 the Finance Committee of the Common Council of the City of Fort
Wayne.

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3 SECTION 20. If any section, clause, sentence, para-
4 graph, part or provision of this Ordinance shall be held
5 invalid by any court, it shall be conclusively presumed
6 that this Ordinance would have been passed by the Common
7 Council without such invalid section, clause, sentence,
8 paragraph, part or provision.

9 SECTION 21. This Ordinance shall be in full force
10 and effect from and after its passage and approval by the
11 Mayor.

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13 Thomas E. Schmidt
14 Councilman
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28 Approved as to form and legality
29 this 8th day of December, 1975.

30 John H. Logan
31 John H. Logan, Attorney for Common Council
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35

Read the first time in full and on motion by Nuckols, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: 11-25-75

Charles W. Osterman
CITY CLERK

Read the third time in full and on motion by V. Schmidt, seconded by Hinga, and duly adopted, placed on its passage. Passed (~~LOS~~) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
TOTAL VOTES	<input checked="" type="checkbox"/> 6	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/>
BURNS	_____	_____	<input checked="" type="checkbox"/>	_____	_____
HINGA	<input checked="" type="checkbox"/>	_____	_____	_____	_____
KRIVUS	_____	<input checked="" type="checkbox"/>	_____	_____	_____
MOSES	<input checked="" type="checkbox"/>	_____	_____	_____	_____
NUCKOLS	<input checked="" type="checkbox"/>	_____	_____	_____	_____
SCHMIDT, D.	_____	<input checked="" type="checkbox"/>	_____	_____	_____
SCHMIDT, V.	<input checked="" type="checkbox"/>	_____	_____	_____	_____
STIER	<input checked="" type="checkbox"/>	_____	_____	_____	_____
TALARICO	<input checked="" type="checkbox"/>	_____	_____	_____	_____

DATE: 12-9-75

Charles W. Osterman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~Zoning Map~~) (~~General~~) (~~Annexation~~) (~~Special~~) (~~Appropriation~~) Ordinance (Resolution) No. 9-29-75 on the 9th day of December, 1975.

ATTEST:

(SEAL)

Charles W. Osterman
CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 10th day of December, 1975, at the hour of 11:00 o'clock A. M., E.S.T.

Charles W. Osterman
CITY CLERK

Approved and signed by me this 10th day of December, 1975, at the hour of 3:00 o'clock P. M., E.S.T.

James Stier
MAYOR

~~Dec-9~~

Bill No. G-75-11-65 *as amended*

REPORT OF THE COMMITTEE ON REGULATIONS

We, your Committee on Regulations to whom was referred an Ordinance
governing the procedure to be followed with regard to the demotion of members
of the Fort Wayne Fire Department, *and providing for the*
establishment of a Fire Department Mutrel System
Committee.

have had said Ordinance under consideration and beg leave to report back to the Common

Council that said Ordinance *No* PASS.

SAMUEL J. TALARICO
Eugene Kraus, Jr. - Chairman

John Huckols - Vice-Chairman

Vivian G. Schmidt

Paul M. Burns

Donald J. Schmidt

Samuel J. Talarico
John Huckols
Vivian G. Schmidt

12/9/75 CONTINUED IN
DATE CHARLES W. WESTERMAN, CITY CLERK

1
2 BILL NO. G-75-11-65

3 GENERAL ORDINANCE NO. G- _____

4 AN ORDINANCE governing the procedure to be followed
5 with regard to the demotion of members of the
6 Fort Wayne Fire Department

7 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
8 WAYNE, INDIANA:

9 SECTION 1. Definitions. As used herein:

10 The words "Board" and "Board of Public Safety" shall refer to that
11 agency known variously as the "Board of Public Safety" and as the "Board of Com-
12 missioners of the Department of Safety," being the agency which exercises manage-
13 ment, control and supervision over the Fire Department of the City of Fort Wayne,
14 Indiana or to any successor agency exercising like management, control and super-
15 vision.
16

17 The word "Chief" shall refer to the Fire Chief within and for the City
18 of Fort Wayne, Indiana.

19 The word "City" shall refer to the City of Fort Wayne, Indiana.

20 The word "Fire Department" shall refer to the Fort Wayne Fire Depart-
21 ment.
22

23 The word "Mayor" shall refer to the Mayor of the City of Fort Wayne,
24 Indiana.

25 The masculine shall include the feminine and neuter and the neuter
26 shall include the feminine and masculine.

27 The disjunctive shall include the conjunctive and the conjunctive shall
28 include the disjunctive.

29 SECTION 2. With the exception of the Chief, every member of the Fire
30 Department appointed by the Mayor or by the Board of Public Safety shall hold his
31 present rank, or such rank as he may hereafter attain, unless and until he is demoted
32 by the Board in compliance with the terms of this Ordinance. A member may be de-
33 moted only for cause other than politics, after written notice from the Chief is served
34 upon him in person or by copy left at his last and usual place of residence notifying
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him of the time and place of a hearing. Said notice shall contain the written reasons for such request from demotion, and shall be served upon the member at least ten (10) days prior to the date set for said hearing.

SECTION 3. The Board of Public Safety shall then hold a hearing upon the question as to whether or not said member shall be demoted. The member may appear in person and by counsel and present evidence in response to the charges filed against him

SECTION 4. The Board of Public Safety and the member of the Fire Department against whom charges are preferred shall have the power to compel the attendance of witnesses and to examine them under oath at such hearing and for that purpose may issue subpoenas and cause the same to be served and executed in any part of Allen County, Indiana.

SECTION 5. A member of the Fire Department may be demoted under the procedure referred to above if he has been convicted in any court of a felony under the laws of the State of Indiana or of the federal government; or upon the finding and decision of the Board of Public Safety that any such member has been or is guilty of gross neglect of duty, or willful violation of the rules and regulations of the department, or willful neglect or disobedience of orders of the department, or absence without leave or immoral conduct.

SECTION 6. After charges have been filed and a hearing held in compliance with the terms of this ordinance, if the Board of Public Safety shall find, by a majority vote, that the member should be demoted in rank, the Board shall then have the authority to reduce or demote said member one (1) position in rank. In the event there is no vacancy in the rank next below the rank for which the member held immediately prior to his demotion, he shall be demoted to the next lowest rank in which there is a vacancy, provided, however, that he shall be awarded the first vacancy thereafter occurring in the rank next below the rank he held immediately prior to his demotion.

SECTION 7. The Chief may be demoted by the Mayor for such reasons as the Mayor may deem sufficient and without necessity for notice or hearing. Provided, however, the Chief may be demoted one (1) position in rank. In the event there is no vacancy in the rank next below the rank of chief, he shall be demoted to the next lowest rank in which there is a vacancy and he shall be awarded the first vacancy thereafter occurring in the rank next below the rank of chief.

SECTION 8. In the event two or more members of the Fire Department shall have been demoted to a rank more than one (1) rank below the rank each held immediately prior to his demotion, and in the event a vacancy opens for which each would have a claim under the terms hereof, the vacancy shall be awarded, first, to the member who held the higher rank immediately prior to their respective demotions. In the event each held the same rank immediately prior to their respective demotions, the vacancy shall be awarded to the one whose demotion first became effective. In the further event, the demotions were simultaneous, the vacancy shall be awarded to the one who had the longer service in the rank each held immediately prior to their respective demotions.

SECTION 9. Any member of such fire force who is demoted, as aforesaid, shall have the right to appeal said demotion to the Allen Circuit Court of the Allen Superior Court. Such appeal shall be taken by such member's filing a complaint in such court, within thirty (30) days after the date such decision is rendered. The City shall be named as the sole defendant and the plaintiff shall cause summons to issue as in other cases against the City. The City may file a motion to dismiss the appeal for failure to perfect the same within the time and in the manner required by this section. The decision appealed from shall be stayed pending the final determination of such appeal.

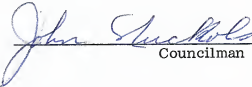
SECTION 10. All such appeals shall be heard de novo upon the issues raised by the charges upon which the decision of the Board was made, which charges shall be deemed to be denied by the accused person. Within ten (10) days after the service of summons, said Board shall file with the court a full, true and

complete transcript of all papers, entries and other parts of the record relating to such particular case. Each party may produce such evidence as it may desire, relevant to the issues, and the court or jury upon such appeal shall review the record and decisions of said board.

SECTION 11. Either party thereto shall be allowed a change of venue from such court or a change of judge in the same manner as such changes are allowed in civil cases. The provisions of the civil code shall govern in all matters of procedure upon such appeal that are not otherwise provided for by this section and by Section 10 hereof.

SECTION 12. If any section, clause, sentence, paragraph, part or provision of this Ordinance shall be held invalid by any court, it shall be conclusively presumed that this Ordinance would have been passed by the Common Council without such invalid section, clause, sentence, paragraph, part or provision.

SECTION 13. This Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.


Councilman



amended

Ref

Sec. 18-

Mrs. Schmidt

month to 9 months

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

Date: _____ CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage. Passed (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
TOTAL VOTES	6	2	1		
BURNS		X			
HINGA	X				
KRAUS		X			
MOSES	X				
NUCKOLS	X				
SCHMIDT, D.			X		
SCHMIDT, V.	X				
STIER	X				
TALARICO	X				

DATE: _____ CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. _____ on the _____ day of _____, 197____.

ATTEST: (SEAL)

CITY CLERK PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

*motion by Donald Schmidt Deleted -
for Eng - Porter Section 2-13*

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197____, at _____ o'clock P.M., E.S.T.

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	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
TOTAL VOTES	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 6	<input type="checkbox"/> 1	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BURNS	_____	_____	<input checked="" type="checkbox"/>	_____	_____
HINGA	_____	<input checked="" type="checkbox"/>	_____	_____	_____
KRAUS	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MOSES	_____	<input checked="" type="checkbox"/>	_____	_____	_____
NUCKOLS	_____	<input checked="" type="checkbox"/>	_____	_____	_____
SCHMIDT, D.	<input checked="" type="checkbox"/>	_____	_____	_____	_____
SCHMIDT, V.	_____	<input checked="" type="checkbox"/>	_____	_____	_____
STIER	_____	<input checked="" type="checkbox"/>	_____	_____	_____
TALARICO	_____	<input checked="" type="checkbox"/>	_____	_____	_____

DATE: _____ CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. _____ on the _____ day of _____, 197____.

ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

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2
3 BILL NO. G-75-11-65 (as amended).

4 GENERAL ORDINANCE NO. G-_____

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6 be followed with regard to the demotion
7 of members of the Fort Wayne Fire
8 Department and providing for the
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10 Merit System Committee.

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17 of Safety", being the agency which exercises management,
18 control and supervision over the Fire Department of the City
19 of Fort Wayne, Indiana or to any successor agency exercising
20 like management, control and supervision.

21 The word "Chief" shall refer to the Fire Chief within
22 and for the City of Fort Wayne, Indiana.

23 The word "City" shall refer to the City of Fort
24 Wayne, Indiana.

25 The word "Common Council" and "Council" shall
26 refer to the Common Council of the City of Fort Wayne, Indiana.)

27 The word "Fire Department" shall refer to the Fort
28 Wayne Fire Department.

29 The word "Mayor" shall refer to the Mayor of the
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32 and the neuter shall include the feminine and masculine.

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such rank as he may hereafter attain, unless and until he is demoted by the Board in compliance with the terms of this Ordinance. A member may be demoted only for cause other than politics, after written notice from the Chief is served upon him in person or by copy left at his last and usual place of residence notifying him of the time and place of a hearing. Said notice shall contain the written reasons for such request for demotion, and shall be served upon the member at least ten (10) days prior to the date set for said hearing.

SECTION 3. The Board of Public Safety shall then hold a hearing upon the question as to whether or not said member shall be demoted. The member may appear in person and by counsel and present evidence in response to the charges filed against him.

SECTION 4. The Board of Public Safety and the member of the Fire Department against whom charges are preferred shall have the power to compel the attendance of witnesses and to examine them under oath at such hearing and for that purpose may issue subpoenas and cause the same to be served and executed in any part of Allen County, Indiana.

SECTION 5. A member of the Fire Department may be demoted under the procedure referred to above if he has been convicted in any court of a felony under the laws of the State of Indiana or of the federal government; or upon the finding and decision of the Board of Public Safety that any such member has been or is guilty of gross neglect of duty, or willful violation of the rules and regulations of the department, or willful neglect or disobedience of orders of the department, or absence without leave or immoral conduct.

SECTION 6. After charges have been filed and a hearing held in compliance with the terms of this ordinance, if the Board of Public Safety shall find, by a majority vote, that the member should be demoted in rank, the Board shall then

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8 next below the rank he held immediately prior to his demotion.
9 (Whenever a vacancy occurs in any rank intermediate between the
10 rank to which the member is demoted and the rank next below
11 the rank in which he was serving immediately prior to his
12 demotion, the member shall be promoted to such vacancy until
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26 until he has been returned to the rank next below the rank of
27 Chief. Provided, further, he shall in no event receive com-
28 pensation less than that paid members serving in the rank next
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32 one (1) rank below the rank each held immediately prior to his
33 demotion, and in the event a vacancy opens for which each would
34 have a claim under the terms hereof, the vacancy shall be
35 awarded, first, to the member who held the higher rank immediately

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7 longer service in the rank each held immediately prior to their
8 respective demotions.

9 SECTION 9. (No member of the Fire Department may be
10 transferred from one division to another except for medical
11 reasons or at the request of the member.)

12 SECTION 10. (No member may be transferred from one
13 shift to another except at his request, or, in the event that
14 the operational necessities of the department require transfers
15 in greater number than can be met by request. Such transfers
16 shall be made of those members having the least continuous
17 seniority in the rank involved in the transfer.)

18 SECTION 11. Any member of such fire force who is de-
19 moted, as aforesaid, shall have the right to appeal said demotion
20 to the Allen Circuit Court of the Allen Superior Court. Such
21 appeal shall be taken by such member's filing a complaint in such
22 court, within thirty (30) days after the date such decision is
23 rendered. The City shall be named as the sole defendant and the
24 plaintiff shall cause summons to issue as in other cases against
25 the City. The City may file a motion to dismiss the appeal for
26 failure to perfect the same within the time and in the manner
27 required by this section. The decision appealed from shall be
28 stayed pending the final determination of such appeal.

29 SECTION 12. All such appeals shall be heard de novo
30 upon the issues raised by the charges upon which the decision
31 of the Board was made, which charges shall be deemed to be denied
32 by the accused person. Within ten (10) days after the service
33 of summons, said Board shall file with the court a full, true
34 and complete transcript of all papers, entries and other parts
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3 of the record relating to such particular case. Each party
4 may produce such evidence as it may desire, relevant to the
5 issues, and the court or jury upon such appeal shall review
6 the record and decisions of said board.

7 SECTION 13. Either party thereto shall be allowed
8 a change of venue for such court or a change of judge in the
9 same manner as such changes are allowed in civil cases. The
10 provisions of the civil code shall govern in all matters of
11 procedure upon such appeal that are not otherwise provided
12 for by this section and by Section 12 hereof.

13 SECTION 14. There shall be appointed a committee
14 to be known as "The Fire Department Merit System Committee".
15 Said Committee shall consist of three members of the Common
16 Council of the City of Fort Wayne appointed by said Council,
17 no more than two of whom shall be members of the same politi-
18 cal party. Said committee shall also consist of one member
19 of the Fire Department to be appointed by the present Chief,
20 one member of the Fire Department to be appointed by the
21 Mayor assuming office January 1, 1976, one member of the
22 Fire Department to be appointed by the Fire Chief assuming
23 office January 1, 1976, and two members of the Fire Depart-
24 ment to be selected from the membership of the Fort Wayne
25 Professional Fire Fighters Association. The persons selected
26 by the Fort Wayne Professional Fire Fighters Association
27 shall represent the two political parties, ^{may be} and no more than
28 three (3) of the five (5) members of the Fire Department on
29 the Committee shall be members of the same political party.

30 SECTION 15. The committee shall meet from time to
31 time as its members shall determine. No meeting shall be
32 held on less than one week's notice. Five (5) members of
33 the committee shall constitute a quorum. In the event a
34 member cannot attend a meeting, he may select a proxy from
35 the council in the case of a member from the council and from

*the representative of the council to be elected by the members of the
each party to be elected by the members of the
Association who are registered members of
the party in question.*

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2 of the record relating to such particular case. Each party
3 may produce such evidence as it may desire, relevant to the issues,
4 and the court or jury upon such appeal shall review the record
5 and decisions of said board.

6 SECTION 13. Either party thereto shall be allowed
7 a change of venue from such court or a change of judge in the
8 same manner as such changes are allowed in civil cases. The
9 provisions of the civil code shall govern in all matters of
10 procedure upon such appeal that are not otherwise provided
11 for by this section and by Section 12 hereof.

12 SECTION 14. (There shall be appointed a committee
13 to be known as "The Fire Department Merit System Committee".
14 Said Committee shall consist of three members of the Common
15 Council of the City of Fort Wayne appointed by said Council,
16 no more than two of whom shall be members of the same political
17 party. Said committee shall also consist of one member of the
18 Fire Department to be appointed by the present Chief, one member
19 of the Fire Department to be appointed by the Mayor assuming
20 office January 1, 1976, and one member of the Fire Department
21 to be appointed by the Fire Chief assuming office January 1,
22 1976. No more than two of the said members of the Fire De-
23 partment shall be members of the same political party.)

24 SECTION 15. (The committee shall meet from time to
25 time as its members shall determine. No meeting shall be held
26 in less than one week's notice. Four members of the committee
27 shall constitute a quorum. In the event a member cannot attend
28 a meeting, he may select a proxy from the council in the case
29 of a member from the council and from the Fire Department in
30 the case of a member from the Fire Department.)

31 SECTION 16. (Said Committee shall render a report
32 of its activities to the Council no later than March 1, 1976
33 and on the first day of each month thereafter.)

34 SECTION 17. (Said Committee shall prepare recommen-
35 dations to the Council regarding a merit system to be adopted
for the promotion and demotion of members of the Fort Wayne

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2 Fire Department. In preparing such recommendations the
3 Committee shall be appropriated such funds as the Council from
4 time to time shall deem necessary and the Committee shall con-
5 sult with representatives of cities having merit systems for
6 their Fire Departments, with personnel management experts with
7 experience in the field of municipal merit systems, with experts
8 in the fields of Fire Prevention and Fire Fighting and such
9 other authorities as the Committee shall select.)

10 SECTION 18. (No later than one year from the date
11 of the first meeting of said Committee, it shall render its
12 recommendations to the Council. In the event it is unable
13 to agree upon recommendations, it shall submit such reports
14 and findings as the individual members of the Committee may
15 wish. Upon receipt of such recommendations, reports and find-
16 ings, the Council shall prepare a merit system for the Fire
17 Department to be set forth in an Ordinance to be adopted at
18 said time.)

19 SECTION 19. (Upon the effective date of the Ordinance
20 establishing a merit system for the Fire Department, the sections
21 2 through 13 of this Ordinance shall cease to be effective.)

22 SECTION 20. If any section, clause, sentence,
23 paragraph, part or provision of this Ordinance shall be held
24 invalid by any court, it shall be conclusively presumed that
25 this Ordinance would have been passed by the Common Council
26 without such invalid section, clause, sentence, paragraph,
27 part or provision.

28 SECTION 21. This Ordinance shall be in full force
29 and effect from and after its passage and approval by the Mayor.

30
31
32 _____
33 Councilman
34
35

December 12, 1975

Members of Common Council
City of Fort Wayne

Gentlemen and Mrs. Schmidt:

I am in receipt of ordinance G-29-75.

I have read and listened with interest and concern to all the pros and cons which have surfaced during debate on this ordinance.

I am not convinced of the efficacy of this bill. Council may be usurping executive power contrary to law and against the best dictates of management principles.

I am further concerned that this action might undercut the authority of the Board of Safety, which by State law is vested with the responsibility of managing the Fire Department for the executive.

I question Council's legal authority to appropriate money for an executive function only to have this money administered by a Council committee and not the Controller.

I am not opposed to merit in the Fire Department. In fact, three times in the past four years I personally urged the firefighters to accept the administration's proposal to put the Fire Department on merit. The offer was rejected. Twice in the last three years I urged a collective bargaining agreement. It was refused. I now find it hard to believe any profession by either side of a desire for merit or collective bargaining. In spite of suffering the aforementioned refusals, this administration appointed 19 Republicans as Fire Department officers out of a total Fire Department officer force of 81 -- a percentage which I feel is quite commendable.

I had hoped that the Mayor-elect, in the course of this controversy, would have given us a positive indication of his desire to appoint officers on the basis of merit and not politics and to match my percentage of bipartisan achievement.

Members of Common Council
December 12, 1975
Page Two

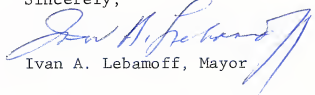
Yet, no such statement has been forthcoming. His chief appointment was contra-indicative of a desire to implement merit.

The Fire Department has a large task to perform: continue implementing the National Loss Control Service Study, train on the new pumpers, become proficient in new fire attack methods, increase productivity, and deal with the fire dangers of our hirises. The department's energy should not be sapped and its unity put under strain with internecine personal battles precipitated by this ordinance.

I am not in favor of the ordinance; but my time is too short, and I've grown weary of the battle. Furthermore, the combined strength of your votes make my veto meaningless.

Therefore, I unhappily return the ordinance signed.

Sincerely,



Ivan A. Lebamoff, Mayor

IAL:clb

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE GENERAL 9-75-11-65

DEPARTMENT REQUESTING ORDINANCE _____

SYNOPSIS OF ORDINANCE AN ORDINANCE governing the procedure to be ~~now~~ followed

with regard to the demotion of members of the Fort Wayne Fire Department

EFFECT OF PASSAGE _____

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) J. J. [Signature]